IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 796 OF 2006

Mr.Suresh Mahadeo Pal. ...Applicant
V/s.
The State of Maharashtra. ...Respondent

Shri Rishi Bhuta for Applicant.
Ms.Rajeshree M. Gadhavi, APP for the State.

CORAM : V.M. KANADE, J.

DATED : MARCH 2, 2006

P.C. :-

. Heard learned Counsel for the applicant and learned APP for the State.

. The applicant is seeking an order of anticipatory bail.

2. It is alleged that the applicant was assaulted on 8th February, 2006 and he was admitted in in Dr.R.N. Cooper Hospital, N.G. Hospital, Juhu, Mumbai, on the said date and he was examined at 9.45 p.m. A complaint was lodged by the applicant against one Shivprakash Vishwakarma, Thereafter, a complaint was lodged by the wife of the said accused in which it was alleged that

around 11.30 p.m. the applicant alongwith two others entered her house and gave fist blows on her stomach, as a result of which, she suffered injuries and there was miscarriage and the child in her womb, therefore, died.

3. It is submitted by the learned Counsel for the applicant that the applicant was in the hospital at the time when the alleged assault on the lady took place.

4. On the last date, I asked learned APP to verify whether the applicant was admitted in the hospital on 8th February, 2006.

5. Learned APP, on instructions from the Investigating Officer who is present in the Court, states that the applicant was admitted in the hospital at 11.25 p.m. and that it was possible for him to have entered the house of the complaint at about the said time since the complaint was lodged at about 11.30 p.m.

6. In my view, the medical papers which were shown on the last date and which have been verified by the

Investigating Officer, clearly show that the applicant was in the hospital at that time and he was admitted in the surgical department and had received confused lacerated wounds. The injury certificate shows that he was examined on 8th February, 2006 at 9.45 p.m. though the time particularly the timing is shown as 11.25 p.m. Thus, there is every possibility that the applicant could not have remained present in the house of the complainant. Further, the second complaint has been lodged immediately after the applicant had filed complaint against the husband of the complainant. Under these circumstances, the applicant has made out a case for bail.

7. The applicant be released on bail in the sum of Rs.5000/- with one or two sureties in the like amount for the offence registered with the Juhu Police Station vide C.R.No.62/2006 under Sections 316, 504, 506 Part II of the IPC. The applicant shall report to the concerned Police Station once in a week for a period of four weeks and thereafter, once in a month.

. Application is disposed of.

(V.M. Kanade, J.)